IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

WEDNESDAY, THE 31ST OCTOBER 2007 / 9TH KARTHIKA 1929

WP(C).No. 23421 of 2007(L)

PETITIONERS:
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1. **MOHANAN K.V., AGED 43 YEARS,**
   S/O LATE K.P.RAMAN NAIR, AJITHALAYAM,
   PATHIRIYAD P.O., KANNUR DISTRICT, PIN-670741.

2. **AJITHKUMAR K.V., AGED 39 YEARS,**
   S/O KUNHAPPA NAIR, KEVEE NIVAS, KAPPAD P.O.,
   KANNUR DISTRICT, PIN-670006.

3. **NARAYANAN P., AGED 43 YEARS,**
   S/O K.KARIMBAN, MANICHAMAL HOUSE, TALIPARAMBU(VIA)
   KARIMBAN P.O., KANNUR DISTRICT, PIN-670142.

4. **V.S.KURIAKOSE, AGED 43 YEARS,**
   S/O SEBASTIAN, VELLOPPILLY HOUSE,
   ST.JUDE NAGAR, KALIYANTHARA P.O.,
   KANNUR, PIN-670706.

BY ADV. SRI.FRANCIS JOSEPH KURISINKAL
SRI.REJI JOSEPH

RESPONDENTS:
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1. **UNION OF INDIA, REP. BY THE SECRETARY**
   MINISTRY OF DEFENCE, NEW DELHI.

2. **THE DIRECTOR OF GENERAL OF RESETTLEMENT,**
   DIRECTORATE GENERAL OF RESETTLEMENT,
   MINISTRY OF DEFENSE, WEST BLOCK IV,
   R.K.PURAM, NEW DELHI-110006.

3. **GENERAL MANAGER TELECOM(ADMINISTRATION),**
   OFFICE OF THE GENERAL MANAGER TELECOM,
   KANNUR-670002.

4. LT.COL.V.K.NAIR(RETD),
MANAGING DIRECTOR, K.N.SECUTIRY ALLIED
SERVICE(P) LTD., BUILDING NO.VII/432 B,
CIVIL STATION, KUNNUMPURAM ROAD, KAKKANAD,
KOCHI-30.

BY ADVS. SRI.P.PARAMESWARAN NAIR,ASST.SOLICITOR
SRI.C.S.RAMANATHAN
SRI.M.P.KRISHNAN NAIR SC FOR BSNL
SRI.UNNIKRISHNAN.V.ALAPATT

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 31/10/2007 ALONG WITH WPC NO. 32026/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 23421/2007

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE RELEVANT PAGES OF DGR GUIDELINES.

EXT.P2. COPY OF THE LETTER DT. 24/7/07 OF THE R3.

EXT.P3. COPY OF THE NOTICE DT. 23/7/07 OF THE R4 TO THE P1.

EXT.P4. COPY OF THE REPRESENTTION DT. 25/07/07 BY THE P1.

EXT.P5. COPY OF THE LETTER DT. 7/12/2001 OF THE R2.

EXT.P6. COPY OF THE JUDGMENT DT. 27/07/2006 OF THIS COURT IS PRODUCED HEREWITH AND MARKED AS.

EXT.P7. COPY OF THE AGREEMENT DT. 1/4/07.

RESPONDENT'S EXHIBITS /ANNEXURE

ANNEXURE A1: COPY OF THE AGREEMENT MADE BETWEEN THE AGENCY AND THE BSNL.

ANNEXURE A2: COPY OF THE JUDGMENT DATED 3/4/06 IN WA NO. 703/06 AND WA NO. 704/2006.

EXT.R2A. COPY OF THE LETER NO. 2112/SA/RA/SECURITY/EMP. DT. 17/1/2003.

True copy

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ANTONY DOMINIC, J.

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W.P.(C)Nos. 23421 & 32026 OF 2007 Y
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Dated this the 31st October, 2007

J U D G M E N T

The prayer made in these writ petitions is to quash Ext. P2 and direct the respondents to allow the petitioners to continue as security guards in the respective offices of BSNL. It would appear that the BSNL had entered into an Annexure A1 agreement with the 4th respondent, the security agency sponsored by the Director General of Resettlement, for providing Security Guards to the establishments of BSNL. The petitioners are some of the security guards, who were deployed based on the agreement. Clause 14 of the agreement provides that the security guards who have registered and worked in BSNL for more than 4 years shall not be engaged again. Petitioners do not have a case that they have not worked for 4 years. In view of this clause in the agreement when attempt was made to replace them, these writ petitions have been filed seeking the reliefs mentioned above.

2. In my view the issue is covered by Clause 14 of

the agreement entered into between BSNL and the 4th respondent. A similar issue was considered by this Court in W.A.No.703/2006 and connected case which were disposed of as per Annexure A2 judgment. In that case, it has been held that the insistence of the BSNL that the same Security Guards engaged in their premises earlier for a specific number of days need not be deployed again, will come squarely within their contractual rights. This finding is with reference to the provisions similar to clause 14 of Annexure-A1 agreement. True, the petitioners have referred to Ext. P6 judgment rendered by a Learned Single Judge this Court and that judgment supports their contention. This judgment was rendered without noticing the Division Bench Judgment In the light of Ext. A2 judgment rendered by a Division Bench of this Court I am bound by that judgment.

In view of this, I do not find any merit in the writ petitions and the writ petitions will stand dismissed.

ANTONY DOMINIC
JUDGE

jan/-